

Declaration of R.E. McGinnis, Application No. 10/037,718; Att. Docket No. 2DLSM&R 12/01

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### **Declaration of Ralph E. McGinnis**

I, Ralph E. McGinnis, declare that:

1. I am an inventor of subject matter in U.S. Patent Application No. 10/367, 718, which was filed on Jan. 4, 2002 and is referred to herein as the present application. I am an inventor of inventions defined by pending claims in the present application. I have a financial interest in any patent issuing on the present application.

2. The date of November 7, 1997, referred to herein as the critical date, is more than one year prior to the respective filing dates of the present application and some of the priority applications for the present application. The critical date is exactly one year from the filing date of U.S. Provisional Application No. 60/107,673 (filed November 7, 1998), the benefit of which is claimed by the present application.

The present application claims priority from application No. 09/947, 768 filed September 5, 2001, which claims priority from Provisional Application No. 60/230, 570 filed September 5, 2000. The present application also claims priority from application No. 09/623, 068 filed on August 26, 2000.

The present application also claims priority from International Application PCT/US99/04376, filed February 26, 1999. And PCT/US99/04376 claims priority from four Provisional Applications: U.S. Provisional Application No. 60/076,102 filed February 26, 1998, U.S. Provisional Application No. 60/076,182 filed February 27, 1998, U.S. Provisional Application No. 60/086, 947 filed May 27, 1998 and U.S. Provisional Application No. 60/107, 673 filed November 7, 1998.

3. Prior to the critical date, I sent a copy of an unpublished manuscript (or version) of the paper that was eventually published by the *Annals of Human Genetics* in 1998 in volume 62 on pages 159-179 (referred to herein as AHG98) to Professor Jurg Ott of Rockefeller University. My best recollection is that I included a letter to Professor Ott with the manuscript (as is customary in the field) indicating that it was still unpublished. Under such circumstances (as is customary in the field) such a manuscript is regarded as confidential. It was my expectation and intent that Professor Ott would, as is customary, treat the manuscript as confidential. Shortly after sending the manuscript to Professor Ott, a similar manuscript was submitted to the *Annals of Human Genetics* for publication; and I requested that the *Annals* make professor Ott a reviewer of the manuscript. I have good reason to believe (although I do not know for sure) that Professor Ott was indeed made a reviewer of the manuscript.

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AHG98 was listed as reference A in the original Information Disclosure Statement (filed April 4, 2002) for the present application and a copy of AHG98 was included with the Information Disclosure Statement for priority application 09/623,068 (now abandoned). The manuscript was sent to Professor Ott sometime between about October 3, 1997 and November 3, 1997. A similar manuscript was sent to, and received by, the *Annals of Human Genetics* on about November 3, 1997.

I declare further that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further that these statements are made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Ralph E. McGinnis

Ralph E. McGinnis

4 November 2005

Date